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EXAMINER

NGUYEN, KEVIN M

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 36

Application Number: 09/090,071
Filing Date: June 03, 1998
Appellant(s): MILLER, ROBIN MIHEKUM

Robin M. Miller
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/20/2003.

A statement identifying the real party in interest is contained in the brief.

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 18 and 20 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

U.S. 5,576,724	Fukatsu et al.	11-1996
J.P. 2-227340	Kadomuki et al.	09-1990

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(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable Fukatsu et al (US 5,576,724) over Kadomuki et al (JP 2-227340).

As to claim 18, Fukatsu et al teach a vehicle heads-up display system comprising: a source (2, 3), a display unit (1), a windshield glass (D), a moving vehicle (see figure 1, column 3, lines 1-5); a control circuit (5), a switch (52), and a photo sensor (51) control and determine the contrast of the heads-up display relative to an environmental image (B) approaching the moving vehicle (4) (see figures 4 and 5, column 6, lines 5-45).

Fukatsu et al fail to teach the control arrangement selects an appropriate fill pattern for the heads-up display dependent upon the texture of the environmental image in order to contrast the heads-up display relative to the environmental image.

However, Kadomuki et al teach a heads-up display device including the symbol (B) for selecting an appropriate fill pattern (see figures 2-5, pages 9 and 10) for the heads-up display dependent upon the landscape, the trees, and the road information in

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order to contrast sufficiently between the respective colors of the landscape, trees and the road information relative to a background (see figures 7, 8 and 10, page 13, line 17 through pages 14 and 15).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the symbol (B) for selecting an appropriate fill pattern for the heads-up display dependent upon the landscape, the trees, and the road information in order to contrast sufficiently between the respective colors of the landscape, the trees, and the road information relative to the background taught by Kadomuki et al for Fukatsu et al's heads-up display device because this would display information or command that can be easily identified by an operator regardless of the state of the operator's forward field of vision (page 8, lines 1-5 of Kadomuki et al).

As to claim 20, Fukatsu et al teach a method of providing a heads-up display comprising the steps of:

- a. providing a system having reflecting mirrors (2 and 3), a display unit (1), a control circuit (5), a photo sensor (51) for directing a heads-up display onto the windshield glass (D) of a moving vehicle (4)(see figures 4, 5, and 11);
- b. directing a heads-up display having reflecting mirrors (2 and 3), a display unit (1), a control circuit (5), a photo sensor (51) onto the vehicle windshield glass (D) (see figures 4, 5, and 11);
- c. controlling the contrast of the heads-up display relative to the environmental image (B) approaching the moving vehicle (4) (see figure 12, column 6, line 54 through column 7 through column 8, line 24);

Fukatsu et al fail to teach selecting an appropriate fill pattern for the heads-up display dependent upon the structural features of the environmental image in order to contrast the heads-up display relative to the environmental image.

However, Kadomuki et al teach a method of providing a heads-up display comprising the steps of selecting an appropriate fill pattern (see figures 2-5, pages 9 and 10) for the heads-up display dependent upon the landscape, the trees, and the road information in order to contrast sufficiently between the respective colors of the landscape, trees, and the road information relative to the background by the symbol (B) (see figures 7, 8 and 10, page 13, line 17 through pages 14 and 15).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize selecting an appropriate fill pattern for the heads-up display dependent upon the landscape, trees, and the road information in order to contrast sufficiently between the respective colors of the landscape, the trees, and the road information relative to the background by the symbol (B) taught by Kadomuki et al for Fukatsu et al's head up display device because this would display information or command that can be easily identified by an operator regardless of the state of the operator's forward field of vision (page 8, lines 1-5 of Kadomuki et al).

(11) Response to Argument

Response to Argument 4

Appellant states that "the claimed invention generally differs from any combination of Fukatsu and Kadomuki in that the control arrangement selects a fill pattern for the HUD dependent upon texture or structural features of the environmental

image in order to contrast the HUD relative to the environmental image," at page 7, 1st paragraph. This argument is not persuasive because Kadomuki et al's invention teaches figure 3, which pertains to the second application example of the present invention, is a model wise diagram which shows the relationship between a symbol and a landscape (see page 10, lines 17-19); displaying symbol continually remains highlighted against the background in the operator's field of vision at a constant contrast ratio (see page 12, lines 6-8); the symbol defines cars that have passed (see page 13, lines 17-22). These arguments are not persuasive because Kadomuki et al teaches the symbol "object/foreground" is selected a fill pattern "the symbol fills and changes pattern of color from bright to dark as shown in figures 3A and 3C" for the HUD dependent upon texture or structural features of the environmental image "landscape/ background" in order to contrast the HUD relative to the environmental image (see figures 3A, 3C).

Appellant states that "the word "pattern" is defined with the gravel road and elongated crops environmental image examples in which the fill patterns for the HUD are elongated bars and dots, respectively," at page 9, lines 9-11. This argument is not persuasive because Kadomuki et al's invention teaches the road surface (see figure 6, page 13, lines 9-13), the trees, and the landscape (see figures 3A and 3B). Accordingly the road surface corresponds to the gravel road, the trees correspond to elongated crops, and environmental image corresponds to the landscape.

For these reasons, the rejections based on Fukatsu et al and Kadomuki et al have been maintained.

Respectfully submitted

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Kevin M. Nguyen

KN

November 12, 2003



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Conferee

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